

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

RONNIE SINGLETON, AS ADMINISTRATOR
AND ON BEHALF OF THE BENEFICIARIES
OF CHARLES SINGLETON, DECEASED

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:06cv15-DCB-JMR

MARINER HEALTH CARE, INC. D/B/A
TRACE HAVEN HEALTH & REHABILITATION
CENTER

DEFENDANT

ORDER

This cause is before the Court on the defendant's Motion for Partial Summary Judgment [**docket entry no. 61**]. Having reviewed the motion and applicable statutory and case law, the Court finds and orders as follows:

On September 6, 2005, this medical malpractice wrongful death action was filed by the administrator of Charles Singleton against Mariner Health in the Circuit Court of Adams County, Mississippi. The defendant removed this action on February 2, 2006, and no motion to remand was filed. The defendant then filed a Motion for Partial Summary Judgment [docket entry no. 61], wherein the defendant requested "that this Court grant partial summary judgment in this cause limiting the Plaintiff's claim for damages to that set forth in Miss. Code Ann. § 11-1-60 which became effective prior to the date that the complaint was filed herein."

For medical malpractice actions filed on or after September 1, 2004, Mississippi Code Section 11-1-60 places a \$500,000.00 cap on

noneconomic damages. The defendant need not file a motion for summary judgment to receive the benefit of such a provision of statutory law; therefore, the defendant's motion for summary judgment was improvidently filed and must be denied. Accordingly,

IT IS HEREBY ORDERED that the defendant's Motion for Partial Summary Judgment [**docket entry no. 61**] is **DENIED**.

SO ORDERED, this the 28th day of February, 2007.

s/David Bramlette
UNITED STATES DISTRICT JUDGE